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No. 220.

IN THE

Supreme Court of the United States

FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF WARREN,

Appellant,

vs.

STANLEY J. BOWERS (SUCCESSOR TO JOHN W. PECK), TAX COMMISSICNER OF OHIO,

Appellee.

BRIEF OF APPELLEE.

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STANLEY J. BOWERS (SUCCESSOR TO JOHN W. PECK), TAX COMMISSIONER OF OHIO,

Appellee.

BRIEF OF APPELLEE.

QUESTION PRESENTED AND STATEMENT OF THE CASE.

This case is a companion to *Society for Savings v. Peck, Tax Commissioner*, No. 204 on the docket of this court which is now pending. The cases were argued and briefed together in the lower court, and the opinion in this case

below relied on the opinion in the *Society for Savings* case, (R., 19.)

Appellee in this case relies on his brief filed herein in *Society for Savings v. Peck*, No. 204, October Term, 1954.

STATUTES INVOLVED.

In addition to the statutes contained in appellant's brief and in the briefs in the *Society for Savings* case, the following statutes are involved here:

Chapter 64, Section 5(a), 48 Stat., 132; Title 12, Section 1464(a), U.S.C.

> "In order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of association to be known as 'Federal Savings and Loan Associations,' and to issue charters therefor, giving primary consideration to the best practices of local mutual thrift and home financing institutions in the United States."

Chapter 64, Section 5(h), 48 Stat., 133-134; as amended Chapter 666, Title IX, Section 909, 53 Stat., 1402; and Chapter 521, Title III, Section 313(d), 65 Stat., 490; Title 12, Section 1464(h), U.S.C.

> "Such associations, including their franchises, capital, reserves, and surplus, and their loans and income, shall be exempt from all taxation now or hereafter imposed by the United States (except the taxes imposed by sections 1410 and 1600 of the Internal Revenue Code [26:1410, 1600] with respect to wages paid after December 31, 1939, for employment after such date, and except, in the case of taxable years beginning after December 31, 1951, income, war-profits, and excess-profits taxes), and all shares of such associa-

tions shall be exempt both as to their value and the income therefrom from all taxation (except surtaxes, estates, and inheritance, and gift taxes) now or hereafter imposed by the United States; and no State, Territorial, county, municipal, or local taxing authority shall impose any tax on such association or their franchise, capital, reserve, surplus, loans, or income greater than that imposed by such authority on other similar local mutual or cooperative thrift and home financing institutions."

ARGUMENT.

The new factor interposed in this case which is not present in the *Society for Savings* case, is the fact that this appellant is chartered under a federal statute. The reference in Title 12, Section 1464(a), supra, to "local mutual thrift institutions" and to their practices indicates the intention of Congress to set up mutual institutions of the conventional type. It is submitted that that also entails property interests of the kind set out in appellee's brief in the *Society for Savings* case.

Title 12, Section 1464(h) is set out to show that Congress has not purported to exempt any interest of the depositors or members from non-discriminatory state taxation.

It is therefore submitted that the principles discussed in the *Society for Savings* case should be applied here, and that the decision of the Supreme Court of Ohio should be affirmed.

Respectfully submitted,

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